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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,935	03/30/2001	Douglas E. Crafts	42390P10315	8164

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EXAMINER

MOONEY, MICHAEL P

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,935

Applicant(s)

CRAFTS ET AL.

Examiner

Michael P. Mooney

Art Unit

2877

aw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 is/are allowed.
- 6) ☒ Claim(s) 1, 16 and 25 is/are rejected.
- 7) ☒ Claim(s) 2-10, 17-24 and 26-30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 16, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonomura et al. (20020129623).

Nonomura et al. teaches a capillary support for holding a capillary. (e.g., element # 10 of figs. 3-4).

Although Nonomura et al. does not explicitly state "a capillary rotator that adjusts an orientation of an opening within the capillary" it would have been obvious to do so because it is notoriously well known (NWK) that some non-zero degree of rotational force is exerted by a "capillary rotator", e.g., a human hand or a machine/device, (thereby adjusting an orientation of an opening within the capillary/holder) on a device such as the capillary/holder 10 in Nonomura et al., for the purpose of inserting the

capillary/holder 10 into an inner space such as 1a illustrated in figs. 5-8 of Nonomura et al.

Furthermore, Nonomura et al. teaches an optical fiber rotator that adjusts a polarization of a first optical fiber and a second optical fiber when the fibers are adjacently disposed within the capillary. (figs. 1, 9-15; paragraphs 0013, 0065).

Thus claim 1 is rejected.

By the reasons and references given above, in addition to the fact that it is NWK to rotate a capillary/holder, such as item 10 in Nonomura et al., that is first secured to a capillary support for the purpose of properly orienting the capillary/holder in a selected orientation for insertion of optical fiber(s), each and every step/element in the order presented in method claim 16 is rendered obvious to one of ordinary skill in the art at the time the invention was made. Thus claim 16 is rejected. If Applicant disagrees with the obviousness holding for this method claim, then Applicant should submit evidence showing this obviousness holding is errant. Examiner will then consider restricting.

By the reasons and references given above, in addition to the fact that it is NWK for the aforementioned "capillary support" to be a clamp for the purpose of properly securing and thus allowing the proper orienting the capillary/holder in a selected orientation for insertion of optical fiber(s), each and every step/element in the order presented in method claim 25 is rendered obvious to one of ordinary skill in the art at the time the invention was made. Thus claim 25 is rejected. If Applicant disagrees with

the obviousness holding for this method claim, then Applicant should submit evidence showing this obviousness holding is errant. Examiner will then consider restricting.

Allowable Subject Matter

Claims 11-15 are allowed.

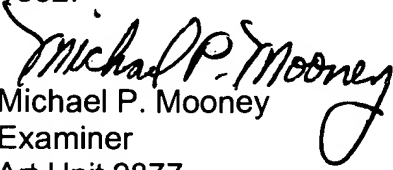
Claims 2-10, 17-24, 26-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Mooney whose telephone number is 571-272-2422. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1562.


Michael P. Mooney
Examiner
Art Unit 2877


Frank G. Font
Supervisory Patent Examiner
Art Unit 2877